

# **Exhibit 4**

Region 9  
600 Delaware Avenue  
Buffalo, NY 14202

February 6, 1981

Mr. J.D. Crane, President  
Tonawanda Coke Corporation  
Box A-500  
Tonawanda, NY 14150

Dear Mr. Crane:

On April 23, 1980, I sent you a letter requesting that the Tonawanda Coke Corp. proceed to submit a formal application for an exception under Part 214.9(a) for those requirements in Part 214 which you deem excessively burdensome. This letter was a followup to our meeting of January 17, 1980 at which we discussed general guidelines for applying for the exception and the subsequent mailing to you on March 26, 1980 of emission factors used by NYSDEC for by-product coke oven batteries. It was my understanding Tonawanda Coke would use this material to propose alternate emission reductions in place of pushing controls as part of a formal application for an exception under Part 214.9(a).

I have never received a response from you to my April 23 letter despite the fact I recommended you should expedite the submission of the formal application for an exception under 214.9(a). By ignoring my letter I feel your action is contrary to the spirit of cooperation between your firm and our regional staff that prevailed during our January 17, 1980 meeting. Since you have chosen not to communicate with me on this issue, I can only infer that your delay might have been caused by your awaiting EPA formal action on our SIP submittal.

Further, on November 22, 1980, Mr. Edward W. Davis, Director of our Bureau of Abatement Planning sent you a copy of DEC's response to EPA's proposed action on the Niagara Frontier State Implementation Plan. As mentioned in his letter to you, clarification of the position of Tonawanda Coke in the SIP was given. Our position was that the SIP and Part 214 within the SIP do not relate to Tonawanda Coke. Therefore, abatement schedules for federal enforcement would not be appropriate. This would also include their approval of any exceptions that we grant under Part 214.9(a). On the other hand, Part 214 is within State enforcement discretion and does include Tonawanda Coke and will be enforced by the Regional Office. Enclosed are copies of my April 23 letter and Mr. Davis' letter of November 22 for your reference.

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It has been over a year since we first met to discuss how Tonawanda Coke can comply with the New York State Department of Environmental Conservation's new Part 214 regulation. I feel the time has come for you to take positive action to resolve this matter. I am, therefore, requesting that you submit to this office no later than March 6, a formal application for exception under Part 214.9(a) for those requirements in Part 214 which you deem excessively burdensome. If this application is not received by that date, I will request our Regional Attorney to proceed with formal enforcement action against Tonawanda Coke for failure to be in compliance with Part 214.

Very truly yours,

Stanley Gubner, P.E.  
Principal Air Pollution  
Control Engineer

SG:ec

cc: Messrs Hovey, Davis, Allen, Burke, Armbrust